

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.221 OF 2002
IN
SUIT NO.4286 OF 1998

Gangaram Motaji Purohit Plaintiff

versus

Karansingh Bhuralal Purohit
and others Defendants

and

State of Maharashtra Applicant

None for plaintiff.

Ashok Boghani for defendant.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 30th June 2005

PC :

1. None present when the matter is called out.

2. This is a Notice of Motion taken out by the State of Maharashtra through Sale Tax Officer for leave under Order XXI, Rule 52 of CPC to attach moveable and immovable properties of M/s.Colaba Sweet Meat Mart for enabling recovery of arrears of Sales Tax. Further, it is prayed that the

applicants (State of Maharashtra) through Sales Tax Officer, be impleaded as party to the suit. A declaration is claimed that the dues of the applicant has priority over all creditors of said M/s.Colaba Sweet Meat Mart. Therefore, it is prayed that the Court Receiver who is appointed Receiver in this suit, should be directed to take possession of the properties and conduct auction sale to recover the dues.

3. Mr.Bhogani appearing for defendant no.1 points out that the entire issue in this Notice of Motion is rendered academic inasmuch as under the Amnesty Scheme which was promulgated to enable the assesseees to pay the outstanding Sale Tax dues, first defendant has in fact cleared the entire arrears reference to which is made in the affidavit in support of this Notice of Motion. In other words, once the Sales Tax dues including penalty are paid and there are no arrears, there is no question of issues raised in the Notice of Motion being considered.

4. Mr.Bhogani seeks time to place this fact on affidavit. Time granted. Affidavit to be filed within one week. In the light of this statement and further in the light of the affidavit which

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is to be placed on record, Notice of Motion does not survive and is accordingly disposed off. All questions of law including issue of priority raised, are kept open to be decided in appropriate case.

(S.C.DHARMADHIKARI, J.)